

Application: 10/707,949

UCT 06 2006

Attorney Docket No. 112.P77195

REMARKS

The current patent application has been reviewed in light of the Office Action, dated April 6, 2006, (hereinafter "the office action"). In the office action, claims 1, 8, 12-13, 23-24, and 27-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari et al., U.S. Patent No. 6,532,035 (hereinafter "Saari") in view of Kuroda, U.S. Patent Application Publication No. 2003/0036365 (hereinafter "Kuroda") and Belliveau, U.S. Patent Application Publication No. 2004/0114043 (hereinafter "Belliveau"). Claims 2-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari in view of Kuroda and Belliveau and in further view of Motta et al., U.S. Patent No. 6,809,772 (hereinafter "Motta"). Claims 14-18, 20, and 25-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari in view of Motta and Belliveau. Entry and consideration of this amendment and response is respectfully requested.

Claims 1-3, 7-8, 12-16, 18, 20, 23-24, and 27-28 are currently pending. Claims 4-6, 9-11, and 19 were previously withdrawn. Claims 17, 21-22, and 25-26 are cancelled without prejudice or disclaimer. Claims 1-3, 7, 12-15, 18, 20, 24, and 28 have been amended to more clearly delineate intended subject matter. The amendments to the claims are made without prejudice or disclaimer, and Assignee believes that none of these claim amendments constitute narrowing amendments. In fact, some of these claim amendments are intended to be broadening amendments. Accordingly, Assignee does not intend to surrender claimed subject matter by submission of the above amendments and no prosecution history estoppel should apply.

Claim Rejections Under 35 U.S.C. §103(a)

Claims 1, 8, 12-13, 23-24, and 27-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari in view of Kuroda and Belliveau. Claims 2-3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari in view of Kuroda and Belliveau and in further view of Motta. Claims 14-18, 20, and 25-26 are rejected under 35 U.S.C. §103(a) as being unpatentable over Saari in view of Motta and Belliveau.

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To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on Assignee's disclosure. See MPEP § 2143. Assignee respectfully submits that the Examiner has not established a *prima facie* case of obviousness.

The cited documents do not teach or suggest all the limitations of the aforementioned claims. Neither Saari, nor Kuroda, nor Belliveau, nor Motta disclose, either alone or in combination, disclose

“a pedestal capable of turning on a second axis;
a reflector installed on a side of the pedestal capable of selectively
reflecting light from the first hole or the second hole to a
photosensor installed in the housing; and
a strobe installed on the pedestal capable of turning with the pedestal”
(emphasis added)

as claimed in amended claim 1. In the office action, the Examiner asserts that element 86 of Saari discloses a pedestal. Assignee respectfully disagrees. See, for example, Figure 10 of Saari and column 7, lines 21-25 where element 86 is clearly shown and described to be a pivot. Assignee does not concede that a pivot discloses a pedestal. Further, the pedestal of claim 1 comprises a side capable of having installed thereon a reflector. Pivot 86 as shown and described in Saari does not include a side capable of having installed thereon a reflector. Further, claim 1 includes a strobe installed on the pedestal. The pivot of Saari clearly would not support the installation of a strobe on the pivot, and certainly no such structure is

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disclosed. Thus, contrary to the Examiner's assertion, Saari does not disclose the pedestal claimed in claim 1. Kuroda, Belliveau, and Motta also fail to disclose a pedestal as claimed in claim 1. For at least these reasons, even if there was a teaching or suggestion to combine Saari, Kuroda, Belliveau, and Motta, and Assignee respectfully contends that there is no such teaching or suggestion, any resulting combination of Saari, Kuroda, Belliveau, and Motta still lacks all of the elements of claim 1. Therefore, claim 1 and the claims that depend from it are patentable over the cited documents.

Further, the Examiner concedes in the office action that Saari does not disclose "a second hole having a central axis substantially parallel with the first central axis" as claimed in claim 1. Assignee agrees. However, the Examiner further contends that it would have been obvious to modify Saari with Kuroda to provide the second hole having a central axis substantially parallel with the first central axis. The Examiner states that the motivation for the combination would be to provide an apparatus capable of capturing images from both the front and back sides of the apparatus. However, the Examiner at the first paragraph of page 3 of the office action asserts that the apparatus of Saari has the capability to receive light at both the front and rear of the apparatus by moving the lens from a first position to a second position. Therefore, there would be no motivation to modify Saari with Kuroda because according to the Examiner Saari already possesses the capabilities the Examiner attributes to Kuroda.

Claims 14 and 28 include similar limitations. Therefore, claims 1, 14, and 28 and the claims that depend from them are patentably distinguished over the cited documents. Assignee respectfully requests that the Examiner withdraw his rejections to the aforementioned claims.

It is noted that claimed subject matter may be patentably distinguished from the cited patents for additional reasons; however, the foregoing is believed to be sufficient. Likewise, it is noted that the Assignee's failure to comment directly upon any of the positions asserted by

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From: Tamara Daw

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the Examiner in the office action does not indicate agreement or acquiescence with those asserted positions.

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CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in the present patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 439-6500. Entry of this amendment and reconsideration of the present patent application in view of the same, and early allowance of all the claims is respectfully requested. Please charge any underpayments or credit any overpayments to deposit account no. 50-3703.

Respectfully submitted,

Date: October 6, 2006/Calvin E. Wells Reg. No. 43,256/
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